

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 468 OF 2005

TRAVEL AND TOURISM ASSOCIATION OF Petitioners
GOA AND 8 ORS.,

Versus

STATE OF GOA THROUGH ITS CHIEF Respondents
SECRETARY AND 9 ORS.,

Mr. A. N. S. Nadkarni and Mr. N. A. Takkekar, Advocates for the
Petitioners.

Mr. S. S. Kantak, Advocate General with Ms.L. Dharwadkar, Additional
Government Advocate for the Respondent No.1 to 6, 9 & 10.

Mr. S. D. Lotlikar, Senior Advocate with Ms. S. Rao, Advocate for the
Respondent No.7.

Mr. A. Palekar, Advocate for the Respondent No.8.

Coram:- J. N. PATEL &
N. A. BRITTO, JJ.

Date:- 12th December, 2006

P.C.:-

Heard.

The Petitioners, an Association of Tour Operators have approached this Court seeking certain directions to Respondent Nos.1 to 5 in order to allow them to conduct their business without being obstructed by giving instances, as to how they have been obstructed by Respondent No.7 and persons who are in the business of plying the tourist taxis thereby infringing their Fundamental Rights to carry on the business and other activities. In response to the Petition, the Authorities have come with various proposals to resolve the controversy and as sought for by the Petitioners, a Committee also came to be constituted to look into the grievances of all concerned who deal with tourist traffic in the State of Goa. The Committee has given its report which is placed on record. The same is accepted by this Court. While concluding their report, the

Committee has observed that it has achieved the task of regulating the fares which is an important and integral issue. On the other issue of sharing of business, the Committee could not arrive at an amicable solution and left the matter to this Court to decide the same keeping in view the observations made on this issue.

The other issues which are left undecided by the Committee is the area of conflict of interest between the Petitioners and Taxi Operators. In our considered opinion, it is the sole responsibility of the State to see that law and order is maintained and the tourists who are visiting Goa are not put to undue harassment and exploitation by Tour Operators or Taxi Operators i.e. whether the Petitioners and the Respondent No.7/Association are doing their business in accordance with the terms of their permit. From time to time, officials of the State have filed their affidavits and the last filed by Respondent No.1 is tendered today in the Court which is taken on record.

As observed during the last hearing, the Respondent No.1 has stated in his affidavit dated 11th December, 2006 that the State and its Authorities will implement rules and regulations and take steps so as to prevent any conflict between the Petitioners, Respondent No.7 and other Taxi Operators and owners and propose to implement and regulate the fares specified for tourist taxis/maxi cabs and tourist contract carriage vehicles vide Notification dated 6th October, 2006 though it is with a rider as to the question of increase in the fare which these operators are entitled to charge under consideration of the Respondent No.3. But the Respondent No.3 has assured this Court that the authorities will take all possible action to assure that the rates specified are strictly adhered to and have also spelt out the steps the authorities propose to take in the matter. The contention in the affidavit in reply dated 11th December, 2006 in our view for the present is the only solution available in respect of the subject matter unless all concerned work out an amicable settlement in their own interest and in the interest of tourists. The State shall also look after the interests of tourists by taking prompt action on their complaints/reports.

The learned Counsel appearing for the Panchayat submits that the Panchayat will not in any manner curb the business of the Petitioners or Respondent No.7 contrary to law and their respective Fundamental Rights as guaranteed under Article 19 of the Constitution of India except for regulating it in the interest of the Panchayat. It is made clear that the Panchayats have no authority to restrict the business carried out by the Petitioners and Respondent No.7 by such Resolution which would create monopoly in favour of either of the parties and thereby deprive the right of the others who are in the business except for regulating their entry and exit in their jurisdiction in larger public interest.

We accept the assurance given by Respondent Nos.3 and 6 in their affidavit dated 11th December,2006 as an undertaking to this Court which may be read as part of the orders of the Court and any person aggrieved by breach of the undertaking may approach this Court for seeking further orders/directions if felt necessary. But before that the aggrieved person should approach the concerned Respondents either Respondent No.3 or Respondent No.6 with the grievances, if any, they have against their competitors/rivals in the business and if the dispute is not satisfactorily resolved then they are granted leave to approach this Court against the decision of the respective authority.

We, therefore, dispose of this petition in the aforesaid terms with no order as to costs.

J. N. PATEL, J.

N. A. BRITTO, J.

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